

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USDC Docket Number : 05-cv-11594

Geraldine Favaloro

v.

President and Fellows of Harvard College, et al

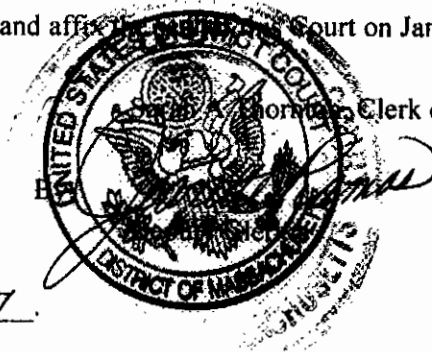
CLERK'S CERTIFICATE

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-67

and contained in I Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 1/19/2007.

In testimony whereof, I hereunto set my hand and affix the seal of the Court on January 23, 2007.



Receipt of the documents in the above entitled case is hereby acknowledged this date: 1/23/07.

D. Barclay
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:05-cv-11594-RCL**

Favaloro v. President and Fellows of Harvard
College et al
Assigned to: Judge Reginald C. Lindsay
Related Case: 1:05-cv-11140-RCL
Case in other court: Essex County Superior Court,
05-01144
Cause: 28:1332 Diversity-Personal Injury

Date Filed: 07/29/2005
Jury Demand: Both
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

Geraldine Favaloro

represented by **David H. Charlip**
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V.

Defendant

**President and Fellows of
Harvard College**
TERMINATED: 12/20/2005

represented by **Donald R. Frederico**
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Defendant

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*A New Hampshire Limited
Liability Company*

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Defendant

John J Gentile
TERMINATED: 12/20/2005

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Trustee

Linda Stokes
Trustee of the Dekes Realty Trust
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represented by **William F. Ahern, Jr.**
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William P. Smith
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LEAD ATTORNEY
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ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/29/2005	<u>1</u>	NOTICE OF REMOVAL by President and Fellows of Harvard College from Essex County Superior Court, case number 05-1144. \$ 250, receipt number 65934, filed by President and Fellows of Harvard College. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Civil Cover Sheet)(York, Steve) (Entered: 08/01/2005)
07/29/2005	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (York, Steve) (Entered: 08/01/2005)
08/05/2005	<u>2</u>	Assented to MOTION for Extension of Time to 8/16/2005 to Answer, move or otherwise respond to the Complaint by President and Fellows of Harvard College.(Nott, Melissa) (Entered: 08/05/2005)
08/09/2005	<u>3</u>	MOTION for Leave to Appear Pro Hac Vice by David H. Charlip Filing fee \$ 50, receipt number 66137. by Geraldine Favaloro.(York, Steve) (Entered: 08/10/2005)
08/09/2005	<u>4</u>	AFFIDAVIT in Support re <u>3</u> MOTION for Leave to Appear Pro Hac Vice by David H. Charlip Filing fee \$ 50, receipt number 66137.. (York, Steve) (Entered: 08/10/2005)
08/10/2005	•	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>3</u> Motion for Leave to Appear Pro Hac Vice Added David H. Charlip for Geraldine Favaloro (York, Steve) (Entered: 08/10/2005)

08/16/2005	<u>5</u>	MOTION to Dismiss by President and Fellows of Harvard College.(Nott, Melissa) (Entered: 08/16/2005)
08/16/2005	<u>6</u>	MEMORANDUM in Support re <u>5</u> MOTION to Dismiss filed by President and Fellows of Harvard College. (Nott, Melissa) (Entered: 08/16/2005)
08/16/2005	<u>7</u>	CORPORATE DISCLOSURE STATEMENT by President and Fellows of Harvard College. (Nott, Melissa) (Entered: 08/16/2005)
08/16/2005		Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>2</u> Motion for Extension of Time to answer to or file a responsive pleading to 8/16/05 (Hourihan, Lisa) (Entered: 08/16/2005)
08/17/2005	<u>8</u>	ANSWER to Complaint (Notice of Removal) by Bayview Crematory, LLC, Bayview Crematory, LLC. (Feeney, Dona) (Entered: 08/17/2005)
08/17/2005	<u>9</u>	CORPORATE DISCLOSURE STATEMENT by Bayview Crematory, LLC. (Feeney, Dona) (Entered: 08/17/2005)
08/17/2005	<u>10</u>	MOTION of Defendent John J. Gentile, for Dismissal of Count III (Negligence) And the Allegations against him in Count IV (Negligent Infliction of Emotional Distress) and Count V (Reckless and/or Intentional Infliction of Emotional Distress) by John J Gentile.(York, Steve) (Entered: 08/19/2005)
08/17/2005	<u>11</u>	MEMORANDUM in Support re <u>10</u> MOTION of Defendent John J. Gentile, for Dismissal of Count III (Negligence) And the Allegations against him in Count IV (Negligent Infliction of Emotional Distress) and Count V (Reckless and/or Intentional Infliction of Emotional Distress) filed by John J Gentile. (Attachments: # <u>1</u> Exhibit)(York, Steve) (Entered: 08/19/2005)
08/17/2005	<u>12</u>	CERTIFICATE OF CONSULTATION re <u>10</u> MOTION to Dismiss Counts III, IV, V, <u>11</u> Memorandum in Support of Motion To Dismiss Counts, by Douglas A. Robertson on behalf of John J Gentile, (York, Steve) (Entered: 08/19/2005)
08/19/2005	<u>13</u>	NOTICE of Change of Address by Donald R. Frederico (Frederico, Donald) (Entered: 08/19/2005)
08/19/2005	<u>14</u>	NOTICE of Appearance by Andrew R. Schulman on behalf of

		Bayview Crematory, LLC (Schulman, Andrew) (Entered: 08/19/2005)
08/22/2005	15	NOTICE of Appearance by MandiJo Hanneke on behalf of Linda Stokes (Hanneke, MandiJo) (Entered: 08/22/2005)
08/22/2005	16	Assented to MOTION for Extension of Time to 8/26/05 to File Answer re 1 Notice of Removal, (<i>Complaint</i>) by Linda Stokes. (Hanneke, MandiJo) (Entered: 08/22/2005)
08/23/2005		Judge Reginald C. Lindsay : Electronic ORDER entered granting 16 Motion for Extension of Time to 8/26/05 to File Answer re 1 Notice of Removal, (<i>Complaint</i>) by Linda Stokes (Hourihan, Lisa) (Entered: 08/23/2005)
08/23/2005	17	STATEMENT OF Defendant John J Gentile, Pursuant to fed.r.civ. 7.1 by John J Gentile. (York, Steve) (Entered: 08/24/2005)
08/24/2005	18	MOTION to Dismiss (<i>Partially Joining In Harvard's Motion To Dismiss</i>) by Bayview Crematory, LLC.(Schulman, Andrew) (Entered: 08/24/2005)
08/24/2005	19	MOTION to Remand by Geraldine Favaloro.(York, Steve) (Entered: 08/25/2005)
08/24/2005	20	MEMORANDUM in Support re 19 MOTION to Remand filed by Geraldine Favaloro. (Attachments: # 1 Exhibit)(York, Steve) (Entered: 08/25/2005)
08/26/2005	21	STATE COURT Record. (Attachments: # 1 Part 2), Filed (York, Steve) (Entered: 08/26/2005)
08/26/2005	22	MOTION for Joinder (<i>partial</i>) in <i>Harvard College's Motion to Dismiss</i> by Linda Stokes.(Hanneke, MandiJo) (Entered: 08/26/2005)
08/26/2005	23	ANSWER to Complaint with Jury Demand by Linda Stokes. (Hanneke, MandiJo) (Entered: 08/26/2005)
08/29/2005	24	MOTION for Extension of Time to respond to pending motions to dismiss by Geraldine Favaloro.(York, Steve) (Entered: 08/29/2005)
08/29/2005	25	Assented to MOTION for Extension of Time to September 13, 2005 to File Response/Reply as to 19 MOTION to Remand by President and Fellows of Harvard College.(Nott, Melissa) (Entered: 08/29/2005)

08/30/2005	<u>26</u>	NOTICE of Appearance by William F. Ahern, Jr on behalf of Linda Stokes (Ahern, William) (Entered: 08/30/2005)
08/31/2005	<u>27</u>	Assented to MOTION for Extension of Time to September 9, 2005 to File Response/Reply as to <u>19</u> MOTION to Remand by Bayview Crematory, LLC.(Feeney, Dona) (Entered: 08/31/2005)
09/02/2005	<u>28</u>	NOTICE of Appearance by Edward P. Leibensperger on behalf of President and Fellows of Harvard College (Leibensperger, Edward) (Entered: 09/02/2005)
09/02/2005	<u>29</u>	NOTICE of Appearance by Melissa L. Nott on behalf of President and Fellows of Harvard College (Nott, Melissa) (Entered: 09/02/2005)
09/07/2005	•	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>25</u> Motion for Extension of Time to File Response/Reply re <u>19</u> MOTION to Remand Responses due by 9/13/2005 (Hourihan, Lisa) (Entered: 09/07/2005)
09/07/2005	•	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>27</u> Motion for Extension of Time to File Response/Reply re <u>19</u> MOTION to Remand Responses due by 9/9/2005 (Hourihan, Lisa) (Entered: 09/07/2005)
09/08/2005	<u>30</u>	Opposition re <u>19</u> MOTION to Remand filed by Linda Stokes. (Attachments: # <u>1</u>)(Hanneke, MandiJo) (Entered: 09/08/2005)
09/08/2005	<u>31</u>	Opposition re <u>19</u> MOTION to Remand (<i>Joining in Defendant Linda Stoke's Opposition</i>) filed by Bayview Crematory, LLC. (Schulman, Andrew) (Entered: 09/08/2005)
09/12/2005	<u>32</u>	Opposition re <u>24</u> MOTION for Extension of Time to To respond to pending motions to dismiss filed by President and Fellows of Harvard College. (Nott, Melissa) (Entered: 09/12/2005)
09/13/2005	<u>33</u>	Opposition re <u>19</u> MOTION to Remand filed by President and Fellows of Harvard College. (Attachments: # <u>1</u> Exhibit B, C# <u>2</u> Exhibit D)(Nott, Melissa) (Entered: 09/13/2005)
09/27/2005	•	Judge Reginald C. Lindsay : ElectronicORDER entered denying <u>24</u> Motion for Extension of Time to Respond to Pending motions to Dismiss (Lindsay, Reginald) (Entered: 09/27/2005)
09/27/2005	•	Judge Reginald C. Lindsay : ElectronicORDER entered

		granting <u>22</u> MOTION for Joinder (partial) in Harvard College's Motion to Dismiss by Linda Stokes. (Lindsay, Reginald) (Entered: 09/27/2005)
09/30/2005	● <u>34</u>	Assented to Motion for Extension of Time to 10/10/2005 to respond to Motion to Dismiss by Geraldine Favaloro.(York, Steve) (Entered: 09/30/2005)
10/03/2005	●	Judge Reginald C. Lindsay : ElectronicORDER entered denying <u>19</u> Motion to Remand (Lindsay, Reginald) (Entered: 10/03/2005)
10/03/2005	●	Judge Reginald C. Lindsay : ElectronicORDER entered granting <u>34</u> Plaintiff's Motion for Extension of Time to Respond to Motion to dismiss. (Lindsay, Reginald) (Entered: 10/03/2005)
10/11/2005	● <u>35</u>	MOTION for Leave to File Brief in excess of 20 pages by Geraldine Favaloro. (Attachments: # <u>1</u>)(York, Steve) (Entered: 10/11/2005)
10/13/2005	● <u>36</u>	Assented to MOTION for Leave to File <i>Reply Memorandum in Support of Motion to Dismiss</i> by President and Fellows of Harvard College.(Nott, Melissa) (Entered: 10/13/2005)
10/17/2005	●	Judge Reginald C. Lindsay : ElectronicORDER entered granting <u>35</u> MOTION for Leave to File Brief in excess of 20 pages by Geraldine Favaloro and granting <u>36</u> Assented to MOTION for Leave to File Reply Memorandum in Support of Motion to Dismiss by President and Fellows of Harvard College. The court will permit the filing of a reply brief of not more than ten pages in length, double-spaced and with customary margins. (Lindsay, Reginald) (Entered: 10/17/2005)
10/20/2005	● <u>37</u>	Opposition re <u>10</u> MOTION to Dismiss, <u>5</u> MOTION to Dismiss filed by Geraldine Favaloro. (York, Steve) (Entered: 10/21/2005)
10/24/2005	● <u>38</u>	MOTION for Leave to File <i>Reply To Objection To Motion To Dismiss</i> by Bayview Crematory, LLC. (Attachments: # <u>1</u> Exhibit Reply Memorandum To Objection To Motion To Dismiss)(Schulman, Andrew) (Entered: 10/24/2005)
10/25/2005	● <u>39</u>	REPLY to Response to Motion re <u>5</u> MOTION to Dismiss filed by President and Fellows of Harvard College. (Nott, Melissa) (Entered: 10/25/2005)

10/26/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>38</u> Motion for Leave to File (York, Steve) (Entered: 10/26/2005)
11/01/2005	●	NOTICE of Hearing on Motion <u>5</u> MOTION to Dismiss, <u>18</u> MOTION to Dismiss (<i>Partially Joining In Harvard's Motion To Dismiss</i>), <u>10</u> MOTION to Dismiss: Motion Hearing set for 12/19/2005 03:00 PM in Courtroom 11 before Judge Reginald C. Lindsay. Be advised, however, that this hearing date is subject to cancellation on forty-eight hours' notice if the court determines for any reason that the hearing will be unnecessary. (Hourihan, Lisa) (Entered: 11/01/2005)
12/09/2005	●	Notice of correction to docket made by Court staff. Attorney William Ahern's record updated in this case to permit electronic noticing. (Hurley, Virginia) (Entered: 12/09/2005)
12/19/2005	●	Judge Reginald C. Lindsay : Electronic ORDER entered granting <u>5</u> Motion to Dismiss by President and Fellows of Harvard College as to all counts, granting <u>10</u> Motion to Dismiss of John Gentile as to all counts, and denying <u>18</u> Motion to Dismiss by Bayview. The Court also denies the Motion of Linda Stokes, Trustee, to Dismiss. These rulings are made for reasons stated on the record at the hearing. (RCL, law1) (Entered: 12/19/2005)
12/19/2005	●	Clerk's Notes for proceedings held before Judge Reginald C. Lindsay : Motion Hearing held on 12/19/2005 re <u>10</u> MOTION to Dismiss filed by John J Gentile, <u>18</u> MOTION to Dismiss (<i>Partially Joining In Harvard's Motion To Dismiss</i>) filed by Bayview Crematory, LLC, <u>5</u> MOTION to Dismiss filed by President and Fellows of Harvard College, <u>22</u> MOTION for Joinder (<i>partial</i>) in <i>Harvard College's Motion to Dismiss</i> filed by Linda Stokes, Trustee. Argument was heard from all parties on the Motions to Dismiss. The Court granted with prejudice the Motions to Dismiss by Harvard and Gentile. The Court denied the Motions to Dismiss by Bayview and Linda Stokes, Trustee. The Court stated its reasons for these decisions on the record. The Court also explained its earlier decision to deny the Motion for Remand by the plaintiff, Favaloro. (Court Reporter D. Joyce.) (RCL, law1) (Entered: 12/19/2005)
12/20/2005	●40	NOTICE of Appearance by William P. Smith on behalf of Linda Stokes, Bayview Crematory, LLC (York, Steve) (Entered: 12/20/2005)

01/13/2006	●41	NOTICE OF APPEAL by Geraldine Favaloro. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 2/2/2006. (Johnson, Lisa) (Entered: 01/13/2006)
01/13/2006	●	Filing fee: \$ 255, receipt number 69579 regarding Notice of Appeal (York, Steve) (Entered: 01/17/2006)
01/30/2006	●42	TRANSCRIPT of Motion Hearing held on December 19, 2005 before Judge Lindsay. Court Reporter: Debra M. Joyce. The original transcripts are maintained in the case file in the Clerk's Office. Copies may be obtained by contacting the court reporter at 617/737-4410 or the Clerk's Office. (Scalfani, Deborah) (Entered: 01/30/2006)